

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JOHN ROBERT DEMOS, JR.,

Petitioner,

v.

STATE OF WASHINGTON, et al.,

Respondents.

NO. C15-944-RSM-JPD

REPORT AND  
RECOMMENDATION

**Bar-order litigant John Demos** filed an application to proceed *in forma pauperis* with a proposed 28 U.S.C. § 2241 habeas petition in the District of Columbia. Dkts. 1 & 2. The District of Columbia transferred the case to the Eastern District of Washington, which in turn transferred the case to this Court. Dkts. 5 & 7.

Although Mr. Demos purports to proceed under § 2241, he challenges his state court conviction and therefore the proper basis for his habeas relief is 28 U.S.C. § 2254. An Order of this Court provides for the return without filing of any petition by Mr. Demos that seeks an extraordinary writ pursuant to 28 U.S.C. §§ 1651, 2253 or 2254, unless accompanied by the filing fee. *See Demos v. Stanley*, MC97-0031-JLW (W.D. Wash. Mar. 13, 1997).

As Mr. Demos has submitted no filing fee, the Court recommends that, pursuant to the Court's Order of March 13, 1997, the Clerk be DIRECTED to administratively close this matter

1 and to strike any pending motions as moot. Moreover, Mr. Demos may not proceed with a  
2 second or successive habeas petition here unless and until the Ninth Circuit authorizes its filing.  
3 *See* 28 U.S.C. § 2244(b)(3)(A). A proposed Order is attached.

4 The Clerk is directed to send a copy of this Report and Recommendation to Mr. Demos  
5 and to the Honorable Ricardo S. Martinez. Objections to this Report and Recommendation, if  
6 any, should be filed with the Clerk and served upon all parties to this suit by no later than  
7 **July 13, 2015**. Failure to file objections within the specified time may affect your right to  
8 appeal. Objections should be noted for consideration on the District Judge's motion calendar for  
9 the third Friday after they are filed. Responses to objections may be filed within **fourteen (14)**  
10 days after service of objections. If no timely objections are filed, the matter will be ready for  
11 consideration by the District Judge on **July 17, 2015**.

12 This Report and Recommendation is not an appealable order. Thus, a notice of appeal  
13 seeking review in the Court of Appeals for the Ninth Circuit should not be filed until the  
14 assigned District Judge acts on this Report and Recommendation.

15 DATED this 22nd day of June, 2015.

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17 JAMES P. DONOHUE  
18 Chief United States Magistrate Judge  
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